GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal petition filed by Smt. Chadalavada Venkata Ramani D/o Satyanarayana Occ: Employee, R/o H.No.196, Hariharapuram, Vanasthalipuram, Hyderabad District against the proceedings, dt.04.02.2012 of the District Collector, Guntur in cancelling her ST 'Yerukula' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.43. Dated: 22.12.2021
Read the following:-

1. Proceedings of Collector, Guntur, Rc.No.209/07/C4, dt: 04.02.2012.
2. Appeal Petition filed by Smt. Chadalavada Venkata Ramani D/o Satyanarayana Occ: Employee, R/o H.No.196, Hariharapuram, Vanasthalipuram, Hyd. before M(TW), No.411/M(TW)/2012, dated: 22.05.2012.
3. Govt. Memo No.7257/CV.2/2012, S.W.(CV.2) Deptt., dt:25.05.2012.
4. From the Collector, Guntur, Lr.No.Rc.No.209/07/C4, dt:21.06.2012.
5. Govt. Memo No.7257/CV.2/2012, dated:27.08.2015, 24.01.2019, 09.10.2019, 10.09.2020 & 17.11.2020.

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ORDER:

In the Proceedings 1st read above, the District Collector, Guntur has issued orders cancelling the ST 'Yerukula' Community Certificate issued to Smt. Chadalavada Venkata Ramani D/o Satyanarayana Occ: Employee, R/o H.No.196, Hariharapuram, Vanasthalipuram, Hyderabad.

2. Smt. Chadalavada Venkata Ramani D/o Satyanarayana has filed Appeal Petition before the Government against the said Proceedings of the District Collector, Guntur duly submitting grounds in support of her claim of ST 'Yerukula' Community Certificate and prayed to set aside the proceedings of the District Collector, Guntur. After examining the said Appeal Petition, Government while admitting the same, had granted stay on the operation of the District Collector, Guntur and called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in Memo 3rd read above.

3. In the letter 4th read above, the District Collector, Guntur has furnished para-wise remarks along with connected records on the Appeal Petition filed by Smt. Chadalavada Venkata Ramani D/o Satyanarayana.

4. The said Appeal Petition has been posted for hearing on 09.02.2019, 19.10.2019, 28.11.2020, 24.07.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memos 5th read above. The appellant and his counsel have attended the last hearing i.e., on 24.07.2021 and the case has been heard by the appellate authority on the said date. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant and proceedings of the District Collector, Guntur, dated 04.02.2012 and further the para-wise remarks submitted by the District Collector, Guntur, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support her claim of "ST Yerukula" community are as follows:

   1) The respondent totally failed to see that there is no dispute with regard to caste of the mother of the appellant and therefore in view of G.O.Ms.No. 371, dated 13.4.1976 the appellant is entitled for the status of Yerukala caste and she has every right to prosecute and to get employment and therefore cancellation of certificates by the proceedings. Rc.No.209/07/C4, dated 4.2.2012 are all illegal and violative if principles of natural justice and constitution of India.

[Contd..on P.2]

2) The respondent totally failed to see that the question of claiming the Schedule Tribe category till 1971 does not arise at all as there was no G.O.Ms.No.371, dt:13.04.1976 and the orders issued vide G.O. has no retrospective effect. The status as claimed by the appellant only after issuing the said G.O.Ms.No.371, dated 13.4.1976 and therefore here is no illegality in issuing the certificate, hence, cancellation of said certificate is bad under law.
3) The respondent totally erred in issuing the impugned proceedings without any finding to the effect that the mother of the appellant is not belongs to Schedule Tribe. The findings of the respondent is total perverse and biased.
4) The respondent totally failed to appreciate the findings and also deposition of the mother of appellant Dasari Satyam, Rangula Devudamma who specifically and categorically stated that when she was aloof and settled with the father of the appellant at Guntur way back about a 40 years ago and conducting enquiry now and expecting the more relatives to be examined is untenable, unwarranted and far away from the facts.
5) The respondent also failed to see that when the pargraph 2 of G.O.Ms. No.371, dated 13.4.1976 is deleted in the year 2007 given the retrospective effect and finding fault that getting benefit under said GO is untenable, unsustainable, perverse and liable to be set aside.
6) The respondent totally biased with regard to enquiry and the finding itself clearly shows that the appellant, though her childhood shown her caste as 'suryabalija' in her school records, cancellation of certificates issued subsequent to G.O.Ms.No.371 came into force without following the regulations prescribed for finalizing and cancellation of certificates, is illegal violative of principles of natural justice and also against law as well as the rules as framed under Act.
7) The respondent initiated the proceedings founding fault with the appellant and cancelled certificates on the malafide, fraudulent, deliberate complaint lodged by some un-known person to effect the service and promotion of the appellant without looking into the facts.
8) The respondent expecting 'Yerukala' language from the appellant is unwarranted and presuming that she don't know the said language is far away from the fact and failed to see that herself and her mother was away from the community for the last several years and moreover when the appellant was provided with good education expecting the language of her mother and mingle with their society is unwarranted and the order under appeal is liable to be set aside.
9) The respondent failed to see that as her mother caste is lower than that of her father she can always claim and eligible for reservation under G.O.Ms.No.371 and therefore there is no wrong in claiming the Schedule Tribe category of reservation in education and employment. When the appellant was employed and even the marriage is not fruitful and living alone and has been posted place to place of her employment, expecting her with the 'Yerukala' community of with any relatives and recognizing her society are all perverse, unsustainable and far away from the facts and basing on the such observation cancellation of certificates is bad.

II. The District Collector, Guntur has furnished the following remarks on the above grounds as follows:

1. The contention of the appellant is not true. The Deputy General Manager, State Bank of India, Hyderabad Module-II(Non Metro) in his letter, dt0 5.02.2007 addressed to the District Collector, Guntur, requested to arrange to enquire into the allegation of submission of bogus ST caste certificate raised against Smt C.V.Ramani, Asst. Manager, Chowtuppal Branch, Hyderabad, who got job in S.B.I., on 1.3.1998 as Clerk-cum-cashier under ST category and got promoted to Officer Cadre w.e.f 01.08.1994.

The plea of the appellant that there is no dispute with regard to caste of her mother is not the subject matter in this case. The caste of the appellant only is the subject matter. Further the caste claim of her mother is also not supported by any valid documentary evidences.

[Contd..on P.3]

2. The plea of the appellant is not correct. Had the appellant was born to a scheduled tribe mother, her caste should have been brought recorded as such even at her primary education stage. Her caste was recorded as 'Suryabalija' from primary school record to Degree level records. With reference to G.O.Ms. No.371, employment & SW(B2) Department, dt.13.4.1976, the Govt. of India have issued clear instructions with regard to the claim of the children of the inter caste couple. The criteria for determination of the caste status of the inter caste couple is that whether the child is recognized and accepted by the St community as belonging to their own community or not as clarified in Govt. Memo 39/37/1973-SCT, dt. 4.3.1975.

The Supreme Court in V.V.Giri Vs Dora reported in AIR 1959 SC 1318(1327) held ....." The caste status of a person in the context would necessarily have to be determined in the light of the recognition received by him from the members of the caste into which he seeks an entry. There is no evidence on this point at all. Besides the evidence produced by the appellant merely shows some Acts by Respondent which no doubts were intended to assert higher status; but unilateral acts of this character cannot be easily taken to prove that the claim for the higher status which the said acts purport to make is established. That is the view which the High Court has taken and the High Court is absolutely right".

As per the observations of Superior Court, it can safely be concluded that the crucial test to determine is whether a child born out of such wedlock has been accepted by the scheduled Tribe community as a member of their community and has been brought up in that surrounding and in that community or not. The nexus between the child and the community or class or caste is a real test irrespective of the fact whether the accommodating class or caste or community is scheduled Tribe community or a caste Hindu Community. Even if the mother of the child is a member of the scheduled Tribe community, it is possible that the child is accepted by the community of his father's and brought up in the surroundings of his father's relations. In that case, such a child cannot be treated as a member of the scheduled Tribe community and cannot get any benefits as such. Similarly when the mother belongs to a higher caste and the father is a scheduled Tribe, the father may retain away from the scheduled Tribe community and the child may be brought up in a different surrounding under the influence of his mother's relations and her community members. In such cases, also the child cannot be said to be the member of the Scheduled Tribe community. In the alternative, where the child irrespective of the fact whether the father or the mother is a member of Scheduled Tribe community is brought up in the Scheduled Tribe community as a member of such community, then he has to be treated as a member of such community, then he has to be treated as a member of the Scheduled Tribe community and would be entitled to receive benefits as such.

Govt. have issued G.O.Ms.No.91, Social Welfare (CV) Dept., dt 03.10.2007 deleting Para 2 of G.O.Ms.No.371, E&SW(B2) Dept., dt:13.04.1976. Provided her privilege of her claim is not correct. The status can be accorded only when the children of the inter caste couple are accepted by the scheduled caste or scheduled Tribe communities. In the present case the very claim of the petitioner about her mother's caste is not established lawfully except the caste entry made in the Xerox copy of the SSLC produced by her and its genuineness is also not established due to non availability of records.

3. The plea of the appellant is not correct. The contention that her mother's name is katta Appala Narasamma who belongs to Yerukala caste and she had migrated from Visakhapatnam is not established. The appellant could not produce any corroborative evidences in respect of name, caste and nativity of her mother. No birth certificate of the mother or school records in this regard.

[Contd..on P.4]

Moreover, the appellant herself admitted that she had no knowledge about her mother side relatives; she did not know the Yerukala Language. She has not produced her mother before the DLSC for enquiry. She stated that her mother is mentally retarded and bed ridden and residing with her art Vanasthalipuram in Hyderabad city. According to her claim, Sarada Devi her mother left Visakhapatnam about 55 to 60 years back and resided at Kakumanu and Guntur for about 40 to 50 years. Therefore, the claim of the appellant that her mother migrated from Visakhapatnam in her childhood and she belongs to Yerukala caste is not supported by any authenticated evidences except the self declaration of the petitioner.

4. The witnesses presented by the appellant could not give any convincing evidence that Katta Appala Narasamma and C.Sarada Devi are one and the same person and could not produced any documentary evidence to show their place of residence. Further Smt Chadalavada Venkata Ramani could not produce any of her blood relatives before the DLSC.

   Further the Govt. have prescribed certain procedure and guidelines for deciding the caste status of inter caste couple. As per the said guidelines, the criteria for determination of the caste status of the children of the inter caste couple is that whether the child is recognized and accepted by the ST community. Therefore the allegation of the appellant that the enquiry procedure followed by the DLSC is untenable and the evidence produced on behalf of her was ignored is not acceptable.

5. As per section 3 of Act 16 of 1993, where an application is made to the competent authority under section 3 for the issue of a community certificate in respect of scheduled castes, scheduled Tribes or backward classes or in any enquiry conducted by the competent authority empowered to cancel the community certificate or the appellate authority under this Act or in any trial or offence under this Act, the burden of proving that he/she belongs to such caste, Tribe or class shall be on the claimant.

   In spite of granting several months of time for producing authenticated evidence to prove her claim, the appellant failed to produce any valid evidences. Therefore her allegation is ill founded and baseless.

6. It is submitted that the District Level Scrutiny Committee., Guntur and the District collector, Guntur duly followed the criteria in Govt. Memo No. 39/37/1973-SCT, dt 4.3.1975 and the observations made by the Hon'ble Supreme court in this regard and the observations made by the Hon'ble Supreme court in this regard and U/s 5(1) of the AP(SC, ST & BC's) Regulation of Issue of Community certificates Act 16 of 1993 read with the rule 9(7) of AP(SC,ST,BC) issue of community, nativity and Date of Birth certificate Rules 1997 communicated in G.O.Ms.No.58, S.W. Dept., dt:12.5.1997, circular Memo No.10956/CV.1/97-2, dt:16.2.1998 issued by the Prl. Secretary to Govt. Social Welfare(CV) Dept., Government of Andhra Pradesh, before issuing order dt.4.2.2012 canceling the caste certificate of the appellant. Therefore, there is no illegality, arbitrariness and unconstitutionality in the order passed by the District Collector, Guntur.

   The District Collector, Guntur has requested to dismiss the appeal petition filed by Smt. Chadalavada Venkata Ramani D/o Satyanarayana Occ: Employee, R/o H.No.196, Hariharapuram, Vanasthalipuram, Hyderabad District before the Govt. against the orders of the District Collector, Guntur District, dated 04.02.2012 is deserves no consideration.

III. Finally, the Appellate Authority has observed /opined that;

1. The Appellant submitted her arguments as per her grounds in the appeal petition and has stated that the lower authority failed to consider that her mother belongs to Yerukula, ST & her father belongs to Surya Balija, BC and

[Contd..on P.5]

the marriage is inter caste marriage and she persued her education under BC category of her father caste and she is entitled for the status of her mother caste under the settled Government Orders and if the same are considered, it can be concluded that she is entitled the benefit of use of her mother caste.

2. On verification of the documents, the grounds of appeal & Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and she failed to produce any evidence that she belongs to ST Community and moreover that the lower authority carefully considered all the documents produced by the appellant and came to a conclusion that the appellant does not belongs to ST community.

3. That as per the act, the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the lower authority.

4. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference and accordingly, the Proceeding of lower authority is hereby upheld and the appeal petition is hereby dismissed.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Proceedings of the District Collector, Guntur District in Rc.No.209/07/C4, dt: 04.02.2012 does not deserve any interference, hence, the same are hereby upheld duly dismissing the appeal petition filed by Smt. Chadalavada Venkata Ramani D/o Satyanarayana and the caste certificate issued by the then Tahsildar, Chirala, is deemed to be cancelled.

6. The District Collector, Guntur is directed to take necessary consequential action in the matter.

7. The records (Rc.No.209/07/C4, containing pages 1- 336) received from the District Collector, Guntur through in the reference 4th read above, are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector and District Magistrate, Guntur.(we)
(With original records) (BY RPAD)

Smt. Chadalavada Venkata Ramani
D/o Satyanarayana Occ: Employee,
R/o H.No.196, Hariharapuram,
Vanasthalipuram, Hyderabad District.

Sri K.B. Ramanna Dora, Advocate,
406, Windsor Plaza, Nallakunta, Hyderabad-44.

Copy to:
The OSD to Hon'ble Dy. CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER